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January 23, 2024

The Honorable Peggy Kuo, U.S.M.J.  
United States District Court for the Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: *Securities and Exchange Commission v. Schueler et al*, 1:23-cv-05749-CBA-PK

Dear Magistrate Judge Kuo:

The parties jointly write the Court regarding the Initial Conference and related pre-conference submissions, which are currently scheduled for January 30 and January 24, respectively. *See* Electronic Order dated 11/21/23 (“Order”). Defendant Richard Heart (“Heart”) asks that the Initial Conference be adjourned for 21 days, a request that the SEC does not oppose. Mr. Heart requests the adjournment so that he may prepare a request to delay or limit discovery in light of the forthcoming motion to dismiss. The SEC currently expects to be opposed to Mr. Heart’s request. Mr. Heart asks that the Court reset the Initial Conference for February 20, 2024 (21 days from the currently scheduled date), or a date thereafter that is convenient for the Court.

Since the Order was entered this past November, Mr. Heart has appeared and Judge Amon has granted his request to file a motion to dismiss along with the parties’ agreed briefing schedule. *See* Electronic Order dated 1/18/24. While the SEC states that it is prepared to exchange initial disclosures and begin discovery, Mr. Heart intends to seek the Court’s guidance on whether and what discovery is appropriate in light of this forthcoming motion. Consequently, Mr. Heart asks that the Court adjourn the Initial Conference and pre-conference submissions, as outlined above, to allow the parties to continue to confer.

Very truly yours,

*/s/ Michael E. Liftik*

Michael E. Liftik

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